

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.1750 of 2005 and

C.M.P.No.9782 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division -I, Salamedu,
Valudhareddy,
Villupuram.

..Appellant/Respondent

..Vs..

1.Ramachandran
2.Chandra
3.Dhanavalli
4.Kalavani
5.Kalavanan
6.Raja
7.Tulasi

.... Respondents/Petitioners 1 to 7

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and Decree passed on 08.10.2004 in MCOP.No.1275 of 2003, on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Judge), Cuddalore.

For Appellant : Mr.P.Jagadeeswaran

For Respondents : No appearance

JUDGMENT

The Managing Director, Tamil Nadu State Transport Corporation Limited is the respondent in MCOP.No. 1275 of 2003, on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Cuddalore.

2. The respondents 1 to 7 filed the a claim petition in MCOP.No.1275 of 2003 under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.10,00,000/- for the death of one Rathinavel, father of the claimants in a road accident that took place on 20.04.2003, at about 01.15 pm, when the deceased Rathinavel was taking a stroll along with a calf on Panruti - Thirukoyilur main road. According to them, a speeding bus bearing Registration No. TN 32 N 0957 belonging to the present appellant hit the deceased Rathinavel and the calf, as a

result of which, the calf died on the spot and the deceased Rathinavel died on the way to Hospital. The further contention of the respondents/claimants is that the rash and negligent driving of the driver of the present appellant was the cause of the accident and therefore, they are liable to pay compensation to him.

3. The Managing Director, Tamil Nadu State Transport Corporation contested the claim petition. The learned Principal Subordinate Judge, Motor Accidents Claims Tribunal, Cuddalore after analysing the evidence on record, awarded a compensation of Rs.2,69,500/- together with interest at the rate of 9% per annum to the respondents/claimants.

4. Aggrieved over the orders passed by the tribunal, the Managing Director, Tamil Nadu State Transport Corporation has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr.P.Jagadeeswaran, learned counsel appearing for the appellant would contend that the tribunal has awarded an exorbitant amount of Rs.2,69,500/-, especially, when the deceased was aged 55 years on the date of the accident.

6. No appearance for the respondents.

7. A perusal of the records shows that the tribunal has fixed the annual income of the deceased as Rs.36,000/- and adopted multiplier of 8. As per the decision in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121, the proper multiplier to be adopted in the instant case is 11. However, it is pertinent to point out that the respondents/claimants did not file any cross objections or appeal against the orders passed by the tribunal. The accident also took place in the year 2003. In the facts and circumstances, I do not find any reason to interfere with the award passed by the tribunal and therefore, the appeal fails and is dismissed.

8. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

(ii) The quantum of compensation awarded by the tribunal is upheld.

(iii) The appellant, the Managing Director, Tamil Nadu State Transport Corporation is directed to deposit the entire compensation awarded by the tribunal to the credit of MCOP.No.1275 of 2003, dated 08.10.2004, on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Judge),

Cuddalore within four weeks from the date of receipt of a copy of this order.

(iv) The respondents/claimants are at liberty to withdraw the same, immediately, as per the orders passed by the tribunal, after following due process of law.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Motor Accident Tribunal,
Principal Subordinate Judge,
Cuddalore.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division -I, Salamedu,
Valudhareddy,
Villupuram.

C.M.A.No.1750 of 2005 and
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